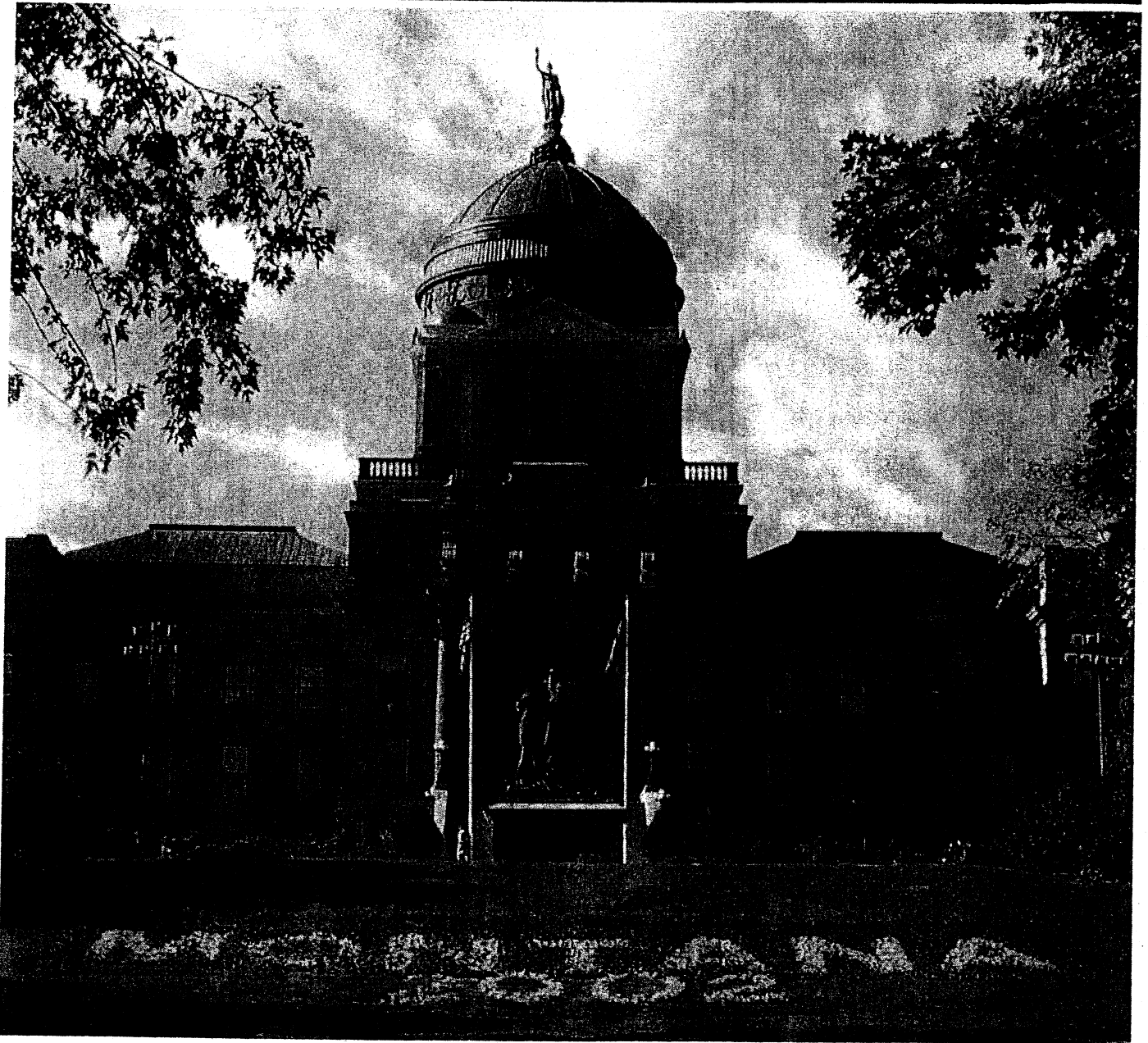




# **2002 Voter Information Pamphlet**



***Vote November 5***

**An official publication of  
Montana Secretary of State**

**Bob Brown**

# A Message from Secretary of State Bob Brown



Dear Montana Voter,

On a single day one year ago, our lives changed forever. The cold-blooded act of September 11 shocked and outraged Americans. But it also unified us in support of our great nation.

We can show our unity on November 5 by exercising the fundamental right of a free people: We can vote in the general election.

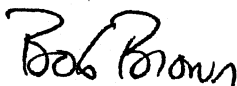
Why take the time and trouble to vote? Because a democracy is only as strong as the voice of its people. When we mark our ballots on Election Day, we make sure our voice is heard. We become soldiers for democracy.

This Voter Information Pamphlet is intended to help you make informed decisions when you vote November 5. It contains information both in support of and opposition to each of the seven initiatives and referenda that will appear on the ballot. Please feel free to mark up your VIP and take it with you to the polls on Election Day.

Of course, there will be many other important races on the general-election ballot, including seats in Congress and the state legislature and on the Montana Supreme Court and Public Service Commission. Please let your voice be heard. Please join me in voting on November 5. Your vote is important. Your vote—your voice—*does* make a difference.

If you would like more information about the upcoming election, visit my web site at [sos.state.mt.us](http://sos.state.mt.us). Or call my office toll-free at 1-888-884-VOTE (8683).

See you at the polls!



Bob Brown, Secretary of State

Published in 2002 by the Office of the Montana Secretary of State.

Additional copies of this Voter Information Pamphlet are available upon request from your county elections office or from the Secretary of State's Office, P.O. Box 202801, Helena MT 59620-2801; 1-888-884-VOTE (8683); [soselection@state.mt.us](mailto:soselection@state.mt.us).

Visit the Secretary of State's Office online at [www.sos.state.mt.us](http://www.sos.state.mt.us).

Cover photo by Gayle C. Shirley/Secretary of State's Office. The year 2002 marks the centennial anniversary of the dedication of the State Capitol Building in Helena. Construction spanned the years 1896-1902 and cost about \$540,000. The east and west wings were added a decade later at a cost of about \$650,000.

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# How to Contact Your County Election Office

Area Code 406

COUNTY	NAME	ADDRESS	PHONE	FAX	E-MAIL
Beaverhead	Rosalee B Richardson	2 South Pacific St. #3, Dillon 59725	683-2642	683-5776	
Big Horn	Cyndy R Maxwell	P.O. Box 908, Hardin 59034	665-9730	665-9738	bhcextcr@mcn.net
Blaine	Sandra L Boardman	P.O. Box 278, Chinook 59523	357-3240	357-2199	cr_blaine@hotmail.com
Broadwater	Judy R Gillespie	515 Broadway St., Townsend 59644	266-3443	266-3674	
Carbon	Jo-Ann Croft	P.O. Box 887, Red Lodge 59068	446-1220	446-2640	elections@co.carbon.mt.us
Carter	Pamela Castleberry	P.O. Box 315, Ekalaka 59324	775-8749	775-8750	ccnrc@midrivers.com
Cascade	Peggy Carrico	P.O. Box 2305, Great Falls 59403	454-6803	454-6725	elections@co.cascade.mt.us
Chouteau	JoAnn L Johnson	P.O. Box 459, Fort Benton 59442	622-5151	622-3012	
Custer	Kathy Pawlowski	1010 Main, Miles City 59301	874-3343	874-3452	
Daniels	Carol Malone	P.O. Box 247, Scobey 59263	487-5561	487-5583	
Dawson	Maurine Lenhardt	207 West Bell, Glendive 59330	377-3058	377-2022	tjhelmuth@hotmail.com
Deer Lodge	Marie Hatcher	800 South Main, Anaconda 59711	563-4060	563-4001	
Fallon	Mary Lee Dietz	P.O. Box 846, Baker 59313	778-7106	778-3431	
Fergus	Kathy Fleharty	712 West Main, Lewistown 59457	538-5242	538-9023	clerkrecorder@tein.net
Flathead	Susan Haverfield	800 South Main, Kalispell 59901	758-5536	758-5865	sueh@co.flathead.mt.us
Gallatin	Shelley Vance	311 West Main, Rm. 204, Bozeman 59715	582-3060	582-3037	svance@co.gallatin.mt.us
Garfield	Leslie Guesanburu	P.O. Box 7, Jordan 59337	557-2760	557-2567	
Glacier	Sylvia Berkram	512 East Main, Cut Bank 59427	873-5063x19	873-2125	glaciercounty@yahoo.com
Golden Valley	Kathleen Ott	P.O. Box 10, Ryegate 59074	568-2231	568-2598	kott@state.mt.us
Granite	Blanche Pederson	P.O. Box 925, Philipsburg 59858	859-3771	859-3817	
Hill	Diane E Mellem	Courthouse, Havre 59501	265-5481x221	265-2445	
Jefferson	Bonnie Ramey	P.O. Box H, Boulder 59632	225-4020	225-4149	bramey@co.jefferson.mt.us
Judith Basin	Amanda H Kelly	P.O. Box 427, Stanford 59479	566-2277x109	566-2211	akelly@co.judith-basin.mt.us
Lake	Kathie Newgard	106 4th Ave. East, Polson 59860	883-7268	883-7283	kathie.elections@lakecounty-mt.org
Lewis & Clark	Paulette DeHart	P.O. Box 1721, Helena 59624	447-8338	457-8598	pdehart@co.lewis-clark.mt.us
Liberty	Maureen Cicon	P.O. Box 459, Chester 59522	759-5365	759-5395	clerk@co.liberty.mt.us
Lincoln	Coral M Cummings	512 California, Libby 59923	293-7781x200	293-8577	lcclerk@libby.org
Madison	Peggy Kaatz Stemler	P.O. Box 366, Virginia City 59755	843-4270	843-5264	
McCone	Leanne K Switzer	P.O. Box 199, Circle 59215	485-3505	485-2689	clerk@midrivers.com
Meagher	Joyce S Wofford	P.O. Box 309, White Sulphur Springs 59645	547-3612 x2	547-3388	
Mineral	Katherine Jasper	P.O. Box 550, Superior 59872	822-3521	822-3579	
Missoula	Vickie Zeier	200 West Broadway, Missoula 59801	523-4751	523-2921	vzeier@co.missoula.mt.us
Musselshell	Jane E Mang	506 Main, Roundup 59072	323-1104	323-3303	mshlcocr@midrivers.com
Park	Denise Nelson	P.O. Box 1037, Livingston 59047	222-4110	222-4117	clerkrecorder@parkcounty.org
Petroleum	Mary L Brindley	P.O. Box 226, Winnett 59087	429-5311	429-6328	mbrindley@state.mt.us
Phillips	Laurel N Hines	P.O. Box 360, Malta 59538	654-2423	654-2429	phillipscoclerk-rec@yahoo.com
Pondera	Janice Hoppes	20 Fourth Ave. SW, Conrad 59425	271-4000	271-4070	clerkrec@3rivers.net
Powder River	Karen D Amende	P.O. Box 270, Broadus 59317	436-2361	436-2151	kamende@co.powder-river.mt.us
Powell	Karla M Rydeen	409 Missouri, Deer Lodge 59722	846-3680x223	846-2784	krydeenmt@yahoo.com
Prairie	Lisa Kimmet	P.O. Box 125, Terry 59349	635-5575x12	635-5576	
Ravalli	Nedra P Taylor	215 S 4th St., Suite C, Hamilton 59840	375-6213	375-6326	recorder@co.ravalli.mt.us
Richland	Elmina J Cook	201 West Main, Sidney 59270	433-1708	433-3731	shirleyclerkrec@richland.org
Roosevelt	Cheryl A Hansen	400 Second Ave. South, Wolf Point 59201	653-6229	653-6289	rooscr@hotmail.com
Rosebud	Geraldine Custer	P.O. Box 47, Forsyth 59327	356-7318	356-7551	
Sanders	Pat Ingraham	P.O. Box 519, Thompson Falls 59873	827-6922	827-4388	pingraham@metnet.state.mt.us
Sheridan	Milt Hovland	100 West Laurel Ave., Plentywood 59254	765-3403	765-2609	mhovland@co.sheridan.mt.us
Silver Bow	Mary McMahon	155 West Granite, Room 208, Butte 59701	497-6335	497-6328	clk&rec@co.silverbow.mt.us
Stillwater	Janet R Parkins	P.O. Box 149, Columbus 59019	322-8000	322-8007	jparkins@co.stillwater.mt.us
Sweet Grass	Sherry Bjorndal	P.O. Box 888, Big Timber 59011	932-5152	932-4777	
Teton	Emile Kimmet	P.O. Box 487, Choteau 59422	466-2909	466-2910	ekimmet@state.mt.us
Toole	Mary Ann Harwood	226 1st St South, Shelby 59474	434-2232	434-2467	clerk@shelby.mt.us
Treasure	Ruth L Baker	P.O. Box 392, Hysham 59038	342-5547	342-5445	clerkrecorder@rangeweb.net
Valley	Lynne Nyquist	501 Court Square, Box 2, Glasgow 59230	228-6226	228-9027	lnyquist@co.valley.mt.us
Wheatland	Mary E Miller	P.O. Box 1903, Harlowton 59036	632-4891	632-4880	
Wibaux	Marlene J Blome	P.O. Box 199, Wibaux 59353	796-2481	796-2625	
Yellowstone	Duane Winslow	P.O. Box 35002, Billings 59107	256-2740	256-2736	dwinslow@co.yellowstone.mt.us

# ***What Is the Voter Information Pamphlet?***

The Voter Information Pamphlet (or VIP) is published by the Secretary of State to provide Montana voters with information on statewide ballot measures. The Secretary of State distributes the pamphlets to the county election officials, who mail a VIP to each household with a registered voter.

## ***Who writes the information in the VIP?***

The Attorney General writes an explanatory statement for each ballot measure. The statement, not to exceed 100 words, is a true and impartial explanation of the purpose of each measure in easy-to-understand language. The Attorney General also prepares the fiscal statement, if necessary, and “for” and “against” statements for each issue.

Pro and con arguments and rebuttals are written by committees appointed by the sponsors of the measures and by state officials. Arguments are limited to one page and rebuttals to a half page. All arguments and rebuttals are printed as filed by the committees and do not necessarily represent the views of the Secretary of State or the State of Montana.

## ***Who can vote by absentee ballot?***

Any voter may request an absentee ballot. A reason to vote absentee, such as expecting to be absent from the county, is not required.

An absentee ballot may be requested from your county election office no later than noon the day before the election (or by noon on Election Day if you have a sudden health emergency). The request (or application) for a ballot must be in writing.

## ***How can I find out if I am registered?***

If you are not sure whether or where you are registered, you should contact your county election office. See the opposite page for contact information. *The registration deadline for the general election is October 7.*

## ***Who is eligible to register?***

Anyone who is a citizen of the United States, at least 18 years of age on or before Election Day, and a resident of Montana and the county for at least 30 days prior to Election Day may register to vote.

## ***Can I get the VIP in a different format?***

If you would like the VIP in large print or some other alternative format, please contact the Secretary of State's Office. The Secretary of State has a telecommunications device for the deaf (TDD) at (406) 444-9068. Audio and large-print versions of the VIP are available at local libraries throughout the state.

For more information on elections, visit the Secretary of State's web site at [www.sos.state.mt.us](http://www.sos.state.mt.us). You also may contact the office directly on a toll-free hotline set up to answer questions on registering and voting; that number is 1-888-884-VOTE (8683).

# ***Political Parties of Montana***

These statements have been prepared by the political parties. They do not necessarily represent the views of the State of Montana or the Secretary of State's Office, but are included to provide information to the voters on the political parties that have qualified for the ballot.

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## **CONSTITUTION PARTY**

The Constitution Party believes the purpose of government is to protect the individual citizen's right to life, liberty and property. It is not government's role to burden citizens with unjust or unneeded laws; or to act as "nursemaid" by instituting countless social programs. We further believe that we must:

- Restore this country to "One Nation Under God."
- Return to Constitutional, Limited Government.
- Protect the Inalienable Right to Life of All, including the Unborn and Infirm.
- Protect the Individual Right to Keep and Bear Arms.
- Restore National Sovereignty, including withdrawal from the U.N.
- Maintain a Strong National Defense.
- Repeal the Income Tax and replace it with Tariffs, Duties & Excise Taxes.
- Abolish the Federal Reserve.
- End Federal Subsidies for and Control of Education and Welfare.
- Return Control over Elections to the People.
- Abolish Special Interest Entitlements (corporate welfare).

We oppose the use of Social Security numbers as a means of personal identification. We oppose the Children's Health Insurance Plan. It is socialized medicine on the "installment plan," and will eventually cost us dearly.

We invite all who love liberty and justice to join with us in our pursuit of restoring our civil government to our country's founding principles.

Constitution Party of Montana  
Jonathan D. Martin, State Chairman  
2212 2nd Avenue South  
Great Falls, MT 59405-2804  
(406) 727-5924  
E-mail: [5martins@in-tch.com](mailto:5martins@in-tch.com)

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## LIBERTARIAN PARTY

The Montana Libertarian Party is the real choice for less government, lower taxes, and more freedom. The Libertarian Party believes in economic and personal freedom. People should be free to make their own choices, provided they don't infringe on the equal right of others to do the same. Government's only role should be to protect people's right to make their own choices in life, so they can reap the rewards of their successes and bear personal responsibility for their own mistakes.

The Montana Libertarian Party is dedicated to:

- \* Living wages for Montana's families by reducing the tax burden and reducing the size and scope of government.
- \* Improving education by empowering parents not bureaucrats, to make important decisions for our children.
- \* Protecting the right to keep and bear arms, and elimination of Victim Disarmament laws.
- \* Safer neighborhoods by punishing violent criminals rather than wasting resources prosecuting victimless crimes.
- \* A cleaner environment through innovative property rights solutions.
- \* Compassionate private charity that provides short-term assistance, rather than long-term dependence.

If you're tired of the promises of the majority, we invite you to join us, as we fight for everyone's liberty on every issue, all the time.

Montana Libertarian Party

Mike Fellows, Chair

P.O. Box 4803

Missoula, MT 59806

(406) 721-9020, 1-800-Elect-Us

E-mail: [mfellows@usa.net](mailto:mfellows@usa.net), Website: [www.lp.org](http://www.lp.org) / [www.mtlp.org](http://www.mtlp.org)

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## REFORM PARTY

The foundation of our Party is the activity of grassroots citizen volunteers. The Montana Reform Party will make our candidates, party officials and elected officials accountable to our grassroots members who are their principle support. Our Party is open to participation by all who wish to join us to work toward our goals.

We shall restore integrity, accountability and fiscal responsibility to government and its leadership.

We reaffirm the rights of all individuals to life, liberty and the pursuit of happiness.

We support the individual's second amendment Constitutional right to keep and bear arms.

We recognize that legitimate governing authority is based upon the God given sovereignty of the individual. We also support the State of Montana exercising its full sovereignty in all dealings with the Federal Government.

The Montana Reform Party affirms its commitment to uphold the U.S. Declaration of Independence, Constitution and Bill of Rights.

MT QUALIFIED BALLOT MEASURES 2002

WE OPPOSE: C-36, C-37, C-38, C-39.

WE SUPPORT: IR-117, I-145, I-146.

The Montana Reform Party

J.R. Myers, Chairman

P.O. Box 81

Libby, MT 59923

(406) 293-2525

Website: <http://www.geocities.com/johricmye/>

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## CONSTITUTIONAL AMENDMENT 36

### AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION PROVIDING FOR THE INVESTMENT OF THE ASSETS OF A LOCAL GOVERNMENT GROUP SELF-INSURANCE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

The legislature submitted this proposal for a vote. Currently, the Montana Constitution prohibits the investment of public funds in private corporate capital stocks, except for public retirement system and state compensation insurance fund assets. This proposal would create a new exception. This exception would allow for the investment of assets of a local government group self-insurance plan in private corporate capital stock, up to a maximum of 25% of the program's total assets. Recognized standards of financial management would apply in making such investments. If approved, this amendment is effective January 1, 2003.

If the Montana Board of Investments had the option of investing local government self-insurance funds in common stock, the total return on these funds would increase. The Montana Common Stock Pool twenty-four year average annual total rate of return is 15.8 percent compared to 10.1 percent on the Bond Pool. The actual total return increase will depend on the portion of funds invested in corporate stock and the relative performance of stocks and bonds.

- ☐ FOR allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.
- ☐ AGAINST allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

*The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.*

*The PROPONENT argument and rebuttal for this measure were prepared by Senator Royal Johnson, Representative Bob Lawson, and Dorothy Bradley.*

*The OPPONENT argument and rebuttal for this measure were prepared by Representative Jeff Pattison, Representative John Esp, and Steve Vick.*

## **ARGUMENT AGAINST C-36**

Montana has prohibited the use of public funds invested in the stock market for a very good reason. Enron, WorldCom, Greed, Corporate Fraud, and Insider Trading. These are more than words and statements. We are facing ever-increasing uncertainties in the financial world since 9/11, and the instability it has left behind. Corporate investments bring a great potential for loss as well as gain. Private investments for those daring the risk are available for most of us. Public funds should be invested in the most secure investments possible. After all, a bird in the hand is worth two in the bush.

## CONSTITUTIONAL AMENDMENT 37

### AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTION 7, AND ARTICLE XIV, SECTION 9, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO HAVE A CONSTITUTIONAL AMENDMENT PLACED ON THE BALLOT FROM AT LEAST 10 PERCENT IN TWO-FIFTHS OF THE LEGISLATIVE DISTRICTS TO AT LEAST 10 PERCENT IN ONE-HALF OF THE COUNTIES AND TO CHANGE THE BASIS FOR DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE ELECTORS IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE ELECTORS IN A COUNTY LAST VOTING FOR GOVERNOR.

The legislature submitted this proposal for a vote. This proposal would amend the Montana Constitution by changing the signature gathering requirements for placing a constitutional amendment on the ballot. People proposing constitutional amendments will be required to gather signatures from at least 10% of the qualified electors in at least one-half of Montana's counties, rather than in two-fifths of the legislative house districts. Qualified electors would be the number of registered voters last voting for governor in a county. If approved, this measure would take effect July 1, 2003.

- ☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.
- ☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

*The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.*

*The PROPONENT argument and rebuttal for this measure were prepared by Senator Lorents Grosfield, Representative Jeff Mangan, and Representative Alan Olson.*

*The OPPONENT argument and rebuttal for this measure were prepared by Senator Steve Doherty, Representative Joan Hurdle, and Rob Natelson.*

## ARGUMENT AGAINST C-37

### Don't Cancel Democracy – Vote "NO" on C-37!

C-37 is an unfair proposal that would use legal technicalities to make it harder for you to control your own government.

The Montana Constitution says that the people are the source of all political power. Thus, the people have the right to amend the constitution through a legal petition, followed by a public vote. This way of amending the constitution is called a "constitutional initiative."

The constitutional initiative process already is quite a difficult one. But C-37 would make it even more difficult. In fact, C-37 would take away entirely your right to vote on many constitutional initiatives. It would do this by enabling a relatively small number of people in a few counties to keep a measure off the ballot.

C-37 is obviously unfair. In fact, it is so unfair, a federal court in Idaho recently ruled that a proposal similar to C-37 violated the U.S. Constitution. In a democratic republic, decisions should be made by the majority, not by tiny minorities.

C-37 will not block measures proposed by wealthy special interests or politicians who have the organization and money to overcome C-37's legal technicalities. (For example, the wealthy can pay petition signature-gatherers.) But C-37 will make it harder for grass roots volunteers to participate in government. Thus, C-37 strikes right at the heart of the initiative process, which was designed for ordinary people, not for politicians or special interests.

Most laws quite properly come from the legislature. But the petition-initiative process is an important way for the people to check the legislature and occasionally get to vote on proposals blocked by the politicians and lobbyists. Of course, sometimes we disagree with particular initiatives – just as we sometimes disagree with proposals in the legislature. But that's no reason to cancel democracy.

Protect your right to participate in government. Vote "No" on C-37.

## CONSTITUTIONAL AMENDMENT 38

### AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTIONS 4 AND 7, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO PLACE A STATUTORY INITIATIVE ON THE BALLOT FROM 5 PERCENT IN AT LEAST ONE-THIRD OF THE LEGISLATIVE REPRESENTATIVE DISTRICTS TO 5 PERCENT IN AT LEAST ONE-HALF OF THE COUNTIES AND TO CHANGE THE METHOD OF DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE IN A COUNTY LAST VOTING FOR GOVERNOR.

The legislature submitted this proposal for a vote. This proposal would amend the Montana Constitution by changing the signature gathering requirements for placing a statutory initiative on the ballot. People proposing statutory initiatives will be required to gather signatures from at least 5% of the qualified electors in at least one-half of Montana's counties, rather than in one-third of the legislative house districts. Qualified electors would be the number of registered voters last voting for governor in a county. If approved, this measure would take effect July 1, 2003.

- ☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.
- ☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

*The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.*

*The PROPONENT argument and rebuttal for this measure were prepared by Senator Lorents Grosfield, Representative Cindy Younkin, and Representative Alan Olson.*

*The OPPONENT argument and rebuttal for this measure were prepared by Senator Steve Doherty, Representative George Golie, and Rob Natelson.*

## ARGUMENT AGAINST C-38

### Don't Cancel Democracy – Vote "NO" on C-38!

C-38 is still another unfair proposal that would use legal technicalities to make it harder for you to control your own government.

The Montana Constitution says that the people are the source of all political power. Thus, the people have the right to pass laws through a legal petition, followed by a public vote. This way of adopting laws is called a "statutory initiative."

The statutory initiative process already is difficult. But C-38 would make it much more difficult. In fact, C-38 would take away entirely your right to vote on many statutory initiatives. It would do this by enabling a relatively small number of people in a few counties to keep a measure off the ballot.

C-38 is obviously unfair. In fact, it is so unfair, a federal court in Idaho recently ruled that a proposal similar to C-38 violated the U.S. Constitution. In a democratic republic, decisions should be made by the majority, not by tiny minorities.

C-38 will not block measures proposed by wealthy special interests or politicians who have the organization and money to overcome C-38's legal technicalities. (For example, the wealthy can pay petition signature-gatherers.) But C-38 will make it harder for grass roots volunteers to participate in government. Thus, C-38 strikes right at the heart of the initiative process, which was designed for ordinary people, not for politicians or special interests.

Most laws quite properly come from the legislature. But the petition-initiative process is an important way for the people to check the legislature and occasionally get to vote on proposals that are blocked up by the politicians and lobbyists. Of course, sometimes we disagree with particular initiatives – just as we sometimes disagree with proposals in the legislature. But that's no reason to cancel democracy.

Protect your right to participate in government. Vote "No" on C-38.

## CONSTITUTIONAL AMENDMENT 39

### AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT REQUIRING THAT ALL PUBLIC FUNDS BE INVESTED IN ACCORDANCE WITH PRUDENT EXPERT PRINCIPLES BY REMOVING THE RESTRICTION ON INVESTMENT IN PRIVATE CORPORATE CAPITAL STOCK; SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION; AND PROVIDING AN EFFECTIVE DATE.

The legislature submitted this proposal for a vote. Currently, the Constitution allows pension fund and state compensation insurance fund investments in private corporate capital stock. This proposal would amend the Constitution to allow any public funds to be invested in private corporate capital stock, including any funds from the permanent public school trust, permanent funds of the university system and all other state institutions of learning. All of these investments would be subject to recognized standards of financial management. If approved, this amendment is effective January 1, 2003.

If the Montana Board of Investments had the option of investing public funds in common stock, the total return on public funds invested would increase. The Montana Common Stock Pool twenty-four year average annual total rate of return is 15.8 percent compared to 10.1 percent on the Bond Pool. The actual total return increase will depend on the portion of funds invested in corporate stock and the relative performance of stocks and bonds.

- ☐ FOR allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.
- ☐ AGAINST allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

*The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.*

*The PROPONENT argument and rebuttal for this measure were prepared by Senator Bea McCarthy, Representative Dave Lewis, and Rob Natelson.*

*The OPPONENT argument and rebuttal for this measure were prepared by Representative Matt McCann and Ray Peck.*

## ARGUMENT AGAINST C-39

C-39 would remove the present constitutional restriction on investment of public funds, including school trust and other education funds, in private corporate capital stock (SB493 – 2001 Legislative Session). The performance of the stock market in 2002 is the best evidence why C-39 should be voted against.

Investors have every right to gamble with their own money in the stock market, but public officials should never have the right to gamble with public funds for a number of reasons. Investing in the stock market does not simply mean buying and selling stocks. There is a wide array of ways to lose large amounts of money in a short time in the stock market (options, futures, selling short, etc.).

Investing funds in any stock ALWAYS has some degree of risk. When the investors invest their own funds, due caution is usually exercised due to that risk. When people are investing someone else's money they are not as sensitive to that risk that is always present. This factor is real and is called "emotional comfort of the investor" in the literature. Make no mistake, investment in corporate stocks has an inherent risk and no guarantee against loss.

Nearly everyone agrees that the so-called institutional investors (mutual funds, insurance companies, etc.) really exert a great deal of control over the stock markets in the United States because they control huge amounts of money. There is sometimes an information lag on what large investors and officers of corporations are doing in terms of stocks in their own corporations. It has become clear that recent financial statements issued by some corporations are false. To believe all investors are equal in the market is obviously incorrect.

In making claims about "average gain," proponents fail to mention that one would have to invest in over 3,000 stocks on the New York Stock Exchange alone to achieve this average. No one is assured of making an "average gain." Recent information would suggest that some stocks have been strongly influenced by what is called "insider trading."

According to Business Week Magazine in partnership with Standard & Poors, "there have been periods of even five years and longer when stocks have declined in value and the returns from safer, or less volatile, kinds of investments would have been significantly better."

C-39 could impact the school trust account and revenue generated from it. Taxpayers would feel good about enhanced earnings that would benefit the public schools, but C-39 in a bear market will reduce revenue needed to support our school system. C-39 can clearly endanger revenue that supports our public school system.

A large majority of hardworking Montana taxpayers value the revenue derived from education resources/trust, and C-39 clearly places this Montana value at risk. Many investors are wishing something had stopped them from gambling on the stock market this year.



## INITIATIVE REFERENDUM NO. 117

### AN ACT OF THE LEGISLATURE REFERRED BY REFERENDUM PETITION

This proposal seeks a public vote on House Bill 474, passed by the 2001 Legislature. HB 474, among other things, changes provisions regarding the deregulation of the electricity industry. It extends the transition to full consumer choice of electricity providers to 2007. It directs the Public Service Commission to set consumer rates to ensure full recovery of all prudently incurred costs by power suppliers. It creates a public Power Authority to construct, finance, and operate electrical facilities funded by state bonds. The bill creates, but does not fund, a consumer support program to ensure the availability of affordable power.

It is not possible to determine the financial impact of this proposal due to the uncertainties in the electricity and bond markets.

- ☐ APPROVE House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.
- ☐ REJECT House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.

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*The PROPONENT argument and rebuttal for this measure were prepared by Senator Tom Beck and Representative Doug Mood.*

*The OPPONENT argument and rebuttal for this measure were prepared by Representative Michelle Lee, Lloyd D. Bender, and Caryl V. Miller.*

## ARGUMENT AGAINST HOUSE BILL 474

(Referred to voters by IR-117)

- **HB 474 should be rejected** because it has adverse consequences for every Montanan by shifting the financial risk from private investors to Montana taxpayers and ratepayers.
- HB 474 authorizes the state to make loans to build **highly speculative** electricity generating facilities and also **forces taxpayers to pay off those loans if any fail!**
- HB 474 authorizes a State Power Authority to get into the risky and volatile business of buying and reselling electricity, as well as building and running state-owned power plants and transmission lines, **similar to the multi-billion dollar California Plan that failed.**
- **HB 474 strips consumer protections for electricity rates.** Formerly, the Montana Public Service Commission regulated electricity rates.
- **HB 474 holds hostage residential and small business consumers** as a party to power contracts, which are based on an unstable market. Unregulated wholesale electricity suppliers now control supplies and prices in an unregulated monopoly.
- This Act risks putting the state and taxpayers into the energy business. It creates an independent Power Authority to construct, finance, and operate electrical facilities funded by the state.
- Prices have already increased, even though generation costs remain the same as before. The Flathead area already has been hit hard. **As of July 1, 2002, NorthWestern Energy has announced a typical residential bill increase of 9.96%.** That increase is a result of a 43% increase in supply rates.
- HB 474 will eventually affect almost every consumer of electricity as the deregulation process extends to more electricity utilities. Utilities such as Montana-Dakota Utilities have a longer time to begin the deregulation process.
- Montana prematurely passed deregulation legislation without adequate hearings or debate. Deregulation makes little sense in Montana. Montanans should be able to buy energy produced in this state at the most favorable price. **Under the current deregulation scheme, Montana consumers must bid against Californians and others for electricity generated in Montana, and at higher prices.**
- **Wiping the slate clean by rejecting HB 474, then passing a consumer-friendly, Montana-focused energy policy will benefit all Montana consumers.**

## INITIATIVE NO. 145

### A LAW PROPOSED BY INITIATIVE PETITION

This initiative creates an elected public power commission to determine whether purchasing hydroelectric dams in Montana is in the public interest and repeals the Montana Power Authority created by the 2001 legislature. The commission could negotiate to purchase the dams or, if necessary, use the power of condemnation to acquire the dams at fair market value. To pay for the dams, the state could issue \$500 million in bonds to be repaid by the sale of generated electricity. Montana's small consumers would get priority to purchase the electricity. The commission also may invest in renewable energy and conservation projects.

Costs for assessing if acquisition of one or more hydroelectric facilities is in the public interest could be from \$6 to \$12 million. Purchase price and other costs are undeterminable now.

- ☐ FOR creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.
- ☐ AGAINST creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.

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*The PROPONENT argument and rebuttal for this measure were prepared by Senator Ken Toole, Don Judge, and Thomas E. Towe.*

*The OPPONENT argument and rebuttal for this measure were prepared by Representative Roy Brown, Jerome Anderson, Tom Ebzery, Joe Mazurek, and Stan I. Dupree.*

## ARGUMENT AGAINST I-145

**I-145 PROMISES A LOT** – But if the state of Montana condemns privately owned dams and gets into the energy business itself – what will really happen?

- Will my electricity bill go up, or down?
- Will my taxes go up, or not?
- Will this be good for our economy, or bad?

A lot of Montanans have asked those questions – taxpayers, business, labor, ranchers and farmers – and they've all come up with the same answer. The “promise” of I-145, is higher electricity bills, higher taxes and another blow to our struggling economy.

That's why the Montana AFL-CIO, Montana Taxpayers Association, Montana Water Resources Association, Montana Chamber of Commerce, among others – all oppose I-145. Here's what they found:

### **I-145, AN EXPENSIVE NEW BUREAUCRACY**

The first thing I-145 would do is put five new politicians in office, with no experience requirements whatsoever – and THEY ALONE will decide whether Montana should condemn and take over the dams.

### **\$12 MILLION, AND COUNTING**

The next thing this new bureaucracy would do is spend \$12 million of our taxes on a “study.” And if that's not enough money, I-145 lets them come back for more.

### **\$500 MILLION, AND COUNTING**

After that, those five politicians can spend \$500 million in bonds, forcing private industry out and forcing the state into the volatile energy business. And ratepayers are on the hook for that \$500 million.

### **ELECTRICITY RATES? WITH I-145, THE “SKY'S THE LIMIT”**

I-145 sets NO limits on future electricity rates. Once the state is in the power business, it could raise our rates to cover the cost of the bonds, make up a budget deficit, or just to bring in more money.

### **HIGHER TAXES TOO**

I-145 would drain \$17 million from your local governments and schools – because that's how much money the state and counties would lose in taxes. The only way to make up that money is through higher taxes, or higher electricity bills.

### **I-145, BAD FOR JOBS AND THE ECONOMY**

The state budget has already been slashed and we can expect more cuts next year. Low-paying jobs with no future are resulting in Montana's youth being its fastest growing export. We should be encouraging businesses to come into Montana, not kicking them out.

#### **So here's what we know about I-145:**

We know we'll be paying millions for a brand new state bureaucracy.

We know we'll be on the hook for \$500 million in bonds and force the state into one of the riskiest businesses around.

We know I-145 will drain tax dollars from schools, health care and other essential services.

#### **And here's what we don't know:**

We *don't* know how high our electricity bills will go.

We *don't* know how much our taxes will go up.

We *don't* know how many businesses will say no to a Montana that says no to them.

That's the real promise of I-145 – a promise we just can't afford. That's why taxpayers, labor and business leaders, ranchers and farmers ask you – **Please vote NO on I-145.**

## INITIATIVE NO. 146

### A LAW PROPOSED BY INITIATIVE PETITION

In 1998, Montana reached a settlement agreement with tobacco companies under which Montana will receive annual payments from the companies as long as cigarettes are sold in Montana. This initiative dedicates 49 percent of the settlement funds received each year for a state-wide tobacco disease prevention program designed to discourage children from starting to smoke and assist adults in quitting smoking. Funds would also be used for programs which provide health insurance benefits to those Montanans who cannot otherwise afford or acquire health insurance. The initiative also creates a tobacco prevention advisory board.

The initiative will annually require \$14 million of tobacco settlement funds currently deposited in the state general fund to be deposited: \$9.1 million into a fund for tobacco disease prevention and \$4.9 million into a fund for providing health insurance benefits to those who cannot afford or acquire them.

- ☐ FOR dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.
- ☐ AGAINST dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.

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*The PROPONENT argument and rebuttal for this measure were prepared by Kristin Nei, American Cancer Society; Verner Bertelsen, Montana Senior Citizens Association; and Jim Ahrens, MHA...An Association of Montana Health Care Providers.*

*The OPPONENT argument and rebuttal for this measure were prepared by Senator Bob Keenan, Senator Debbie Shea, Representative John Esp, Jerry Driscoll, and Betty Lou Kasten.*

## ARGUMENT AGAINST I-146

You have a choice to make. It is clear and it is critical. It is: do you vote to take money away from providing needed health care services to Montana's most vulnerable populations – children, the elderly, and the disabled? A vote for initiative I-146 is to do exactly that.

I-146 requires that 32% of the tobacco settlement funding be diverted from providing a major source of much needed revenue to the state's funding for health care services into a trust fund. This trust would be used solely for supporting tobacco use prevention programs. The alternatives for providing the services currently funded with this money would be to reduce the level of health care services provided or to enact a tax increase. The tobacco settlement funding is fully used today by the state for necessary services. Reducing this funding source is not without impact.

Because the state uses funds such as those provided by the tobacco settlement to match available funds from the federal government, the impact of taking away this type of money is significantly greater than the amount of funds diverted. The state matches much of this money at a rate of three dollars for every state dollar. The amount of reduction to direct health care services (nursing homes, mental health centers, and community hospitals) to fund the tobacco prevention programs proposed by I-146 would far exceed the funds put into the prevention program. Please vote NO on I-146.

*Secretary of State's note: The following material includes the complete text of each issue, including deleted (interlined) language and new (underlined) language, as it will affect the Constitution or laws of the State of Montana.*

## THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT No. 36 (C-36)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION PROVIDING FOR THE INVESTMENT OF THE ASSETS OF A LOCAL GOVERNMENT GROUP SELF-INSURANCE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article VIII, section 13, of The Constitution of the State of Montana is amended to read:

**"Section 13. Investment of public funds and public retirement system and state compensation insurance fund assets.** (1) The legislature shall provide for a unified investment program for public funds and public retirement system and state compensation insurance fund assets and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except as provided in subsections (3) ~~and (4)~~ through (5), no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

(3) Investment of public retirement system assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the

## THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 37 (C-37)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTION 7, AND ARTICLE XIV, SECTION 9, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO HAVE A CONSTITUTIONAL AMENDMENT PLACED ON THE BALLOT FROM AT LEAST 10 PERCENT IN TWO-FIFTHS OF THE LEGISLATIVE DISTRICTS TO AT LEAST 10 PERCENT IN ONE-HALF OF THE COUNTIES AND TO CHANGE THE BASIS FOR DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE ELECTORS IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE ELECTORS IN A COUNTY LAST VOTING FOR GOVERNOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article III, section 7, of The Constitution of the State of Montana is amended to read:

**"Section 7. Number of electors.** (1) The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

(2) For the purposes of a constitutional amendment, the number of qualified electors in each county and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election."

**Section 2.** Article XIV, section 9, of The Constitution of the State of Montana is amended to read:

**"Section 9. Amendment by initiative.** (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of ~~two-fifths~~ at least one-half of the ~~legislative districts~~ counties.

(2) The petitions shall be filed with the secretary of state. If the petitions are found to have been signed by the required number of electors, the secretary of state shall cause the amendment to be



## THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 38 (C-38)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTIONS 4 AND 7, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO PLACE A STATUTORY INITIATIVE ON THE BALLOT FROM 5 PERCENT IN AT LEAST ONE-THIRD OF THE LEGISLATIVE REPRESENTATIVE DISTRICTS TO 5 PERCENT IN AT LEAST ONE-HALF OF THE COUNTIES AND TO CHANGE THE METHOD OF DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE IN A COUNTY LAST VOTING FOR GOVERNOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article III, section 4, of The Constitution of the State of Montana is amended to read:

**"Section 4. Initiative.** (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least ~~one-third~~ one-half of the ~~legislative representative districts~~ counties and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held."

**Section 2.** Article III, section 7, of The Constitution of the State of Montana is amended to read:

**"Section 7. Number of electors.** (1) The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

## THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 39 (C-39)

AN ACT REQUIRING THAT ALL PUBLIC FUNDS BE INVESTED IN ACCORDANCE WITH PRUDENT EXPERT PRINCIPLES BY REMOVING THE RESTRICTION ON INVESTMENT IN PRIVATE CORPORATE CAPITAL STOCK; SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article VIII, section 13, of The Constitution of the State of Montana is amended to read:

**"Section 13. Investment of public funds and public retirement system and state compensation insurance fund assets.** (1) The legislature shall provide for a unified investment program for public funds and public retirement system and state compensation insurance fund assets and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. ~~Except as provided in subsections (3) and (4), no public funds shall be invested in private corporate capital stock.~~ The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments ~~bearing a fixed rate of interest as may be provided by law that~~ a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in investing a fund guaranteed against loss or diversion.

(3) Investment of public retirement system assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of an enterprise of a similar character with similar aims. Public retirement system assets may be invested in private corporate capital stock.

## THE COMPLETE TEXT OF INITIATIVE REFERENDUM NO. 117 (IR-117)

AN ACT REVISING LAWS RELATING TO ELECTRICAL ENERGY; ALLOWING CUSTOMERS WHO ELECTED AN ALTERNATIVE ELECTRICAL ENERGY SUPPLIER AN OPPORTUNITY TO RECEIVE ELECTRICAL ENERGY FROM THE DEFAULT SUPPLIER; PROVIDING THAT ELECTRICAL ENERGY PURCHASED FROM THE DEFAULT SUPPLIER BY A DEFAULT CUSTOMER MUST BE USED FOR A CONSUMPTIVE PURPOSE AND MAY NOT BE REMARKETED; AUTHORIZING THE BOARD OF INVESTMENTS TO INVEST IN NEW GENERATION PROJECTS THAT MEET CERTAIN CRITERIA; PROVIDING ELIGIBILITY CRITERIA FOR THE PROJECTS, INCLUDING LONG-TERM CONTRACTS WITH THE DEFAULT SUPPLIER OR A MONTANA INDUSTRY FOR THE PURCHASE OF THE ELECTRICAL ENERGY GENERATED BY THE PROJECTS; REQUIRING A PLEDGE OF THE CONTRACT PROCEEDS AS A REPAYMENT OPTION FOR THE INVESTMENTS; MAKING THE STATE A PARTY TO THE CONTRACT IN THE EVENT OF DEFAULT IN PAYMENT BY DEFAULT SUPPLIER; EXTENDING THE DURATION OF THE UNIVERSAL SYSTEM BENEFITS CHARGE; MODIFYING THE DEFAULT SUPPLIER LICENSING RULES; CREATING A CONSUMER ELECTRICITY SUPPORT PROGRAM; PROVIDING THAT AN ELECTRICITY BUYING COOPERATIVE MAY SERVE AS A SUPPLIER OR PROMOTER OF ALTERNATIVE ENERGY AND CONSERVATION PROGRAMS; DEFINING "ELECTRICITY SUPPLY COSTS"; CLARIFYING THE DEFINITION OF "UNIVERSAL SYSTEM BENEFITS PROGRAMS" TO INCLUDE IRRIGATED AGRICULTURE; PROVIDING FOR PROCEDURES FOR A TRANSITION TO CUSTOMER CHOICE; PROVIDING FOR THE DEFAULT SUPPLIER'S RECOVERY OF ELECTRICITY SUPPLY COSTS; REVISING THE UNIVERSAL SYSTEM BENEFITS PROGRAMS FUNDING LEVEL TO INCLUDE IRRIGATED AGRICULTURE; ESTABLISHING A MONTANA POWER AUTHORITY; ALLOWING THE AUTHORITY TO PURCHASE, CONSTRUCT, AND OPERATE ELECTRICAL GENERATION FACILITIES OR ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION SYSTEMS AND TO ENTER INTO JOINT VENTURES FOR THESE PURPOSES; AUTHORIZING THE BOARD OF EXAMINERS TO ISSUE REVENUE BONDS FOR THE MONTANA POWER AUTHORITY TO ACQUIRE ELECTRICAL GENERATION FACILITIES AND TO BUILD ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION SYSTEMS; PROVIDING THAT THE PRINCIPAL AND INTEREST ON THE BONDS IS PAYABLE FROM THE SALE OF ELECTRICAL ENERGY FROM THE FACILITIES AND FROM ELECTRICAL ENERGY TRANSMISSION AND DISTRIBUTION CHARGES; AMENDING SECTIONS 17-7-502, 35-19-104, 69-8-103, 69-8-104, 69-8-201, 69-8-203, 69-8-210, 69-8-211, 69-8-402, 69-8-403, 69-8-412, AND 69-8-414, MCA; REPEALING SECTIONS 35-19-103, 69-8-416, AND 69-8-417, MCA; AND PROVIDING EFFECTIVE DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Purpose.** The purposes of [sections 1 through 5] are to:

(d) the project possesses long-term economic prospects consistent with the obligation to provide electrical energy generation capacity and electrical energy for the term of the contracts as required in [section 5].

(2) A project selected by the board must be collateralized by payments for the sale of the electricity produced by the project to the default supplier or a Montana industry at rates not in excess of 5 cents per kilowatt hour plus annual escalations equal to the inflation rate. A payment may be made from the assets of the state if the default supplier or its assignee or a Montana industry fails to pay the approved project for energy delivered in order to maintain the supply of energy to Montana. The state must be a party to the contract and may bring a cause of action against the default supplier or a Montana industry for nonpayment.

**Section 5. Term of contract -- pledge.** (1) A project is not eligible for an investment under [section 4] unless the applicant has signed an assignable electrical energy sales agreement with the default supplier or its successor in interest or with a Montana industry for a term of not less than 15 years or more than 25 years.

(2) The proceeds of the contract must be pledged as security for the repayment of the investment.

**Section 6.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; [section 19]; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

- (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or
- (b) an existing municipal electric utility as of May 2, 1997.
- (6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana, pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single retail electric customer or consumer with a single individual load.
- (7) "Customer-generator" means a user of a net metering system.
- (8) "Default supplier" means a customer's distribution services provider ~~or a person that has received a default supplier license from the commission.~~
- (9) "Distribution facilities" means those facilities by and through which electricity is received from a transmission services provider and distributed to the customer and that are controlled or operated by a distribution services provider.
- (10) "Distribution services provider" means a utility owning distribution facilities for distribution of electricity to the public.
- (11) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and marketers, offering to sell electricity to retail customers in the state of Montana.
- (12) (a) "Electricity supply costs" means actual costs of the electricity. Actual costs include fuel, ancillary service costs, transmission costs including congestion and losses, and any other costs directly related to the purchase of electricity and management of electricity costs or a related service.
- (b) Revenue from the sale of surplus electricity must be deducted from the costs included under subsection (12)(a). Total transmission costs are recoverable only once in electricity supply costs.
- (c) The terms used in this subsection (12) must be construed according to industry standards.
- ~~(12)~~(13) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.
- ~~(13)~~(14) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited to:
- (i) distribution;
  - (ii) connection;
  - (iii) disconnection; and
  - (iv) termination rates and charges that are authorized by the commission in a financing order to permit recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and of acquiring transition property through a plan approved by

~~(22)~~(23) "Pilot program" means a program using a representative sample of residential and small commercial customers to assist in developing and offering customer choice of electricity supply for all residential and commercial customers.

~~(23)~~(24) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

~~(24)~~(25) "Qualifying load" means, for payments and credits associated with universal system benefits programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in which the customer qualifies as a large customer.

~~(25)~~(26) "Small customer" means a residential customer or a small commercial customer who has an individual account with an average monthly demand in the previous calendar year of less than 100 kilowatts or a new commercial customer with an estimated average monthly demand of less than 100 kilowatts of a public utility distribution services provider that has opened access on its distribution system pursuant to Title 35, chapter 19, or this chapter.

~~(26)~~(27) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and other entities acting for the benefit of that holder.

~~(27)~~(28) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

~~(28)~~(29) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of transition costs.

~~(29)~~(30) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a utility customer does not have any liability for payment of transition costs.

~~(30)~~(31) "Transition costs" means:

(a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital, that become unrecoverable as a result of the implementation of this chapter or of federal law requiring retail open access or customer choice;

(b) those costs that include but are not limited to:

(i) regulatory assets and deferred charges that exist because of current regulatory practices and can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and conservation investments made prior to universal system benefits charge implementation;

(ii) nonutility and utility power purchase contracts, including qualifying facility contracts;

(iii) existing generation investments and supply commitments or other obligations incurred before May 2, 1997, and costs arising from these investments and commitments;

~~(f)~~(g) low-income energy assistance.

~~(37)~~(38) "Utility" means any public utility or cooperative utility."

**Section 9.** Section 69-8-104, MCA, is amended to read:

**"69-8-104. Pilot programs.** (1) Except as provided in ~~69-8-201(4)~~ 69-8-201(5) and 69-8-311, beginning July 1, 1998, utilities shall conduct pilot programs using a representative sample of their residential and small commercial customers. A report describing and analyzing the results of the pilot programs must be submitted to the commission and the transition advisory committee established in 69-8-501 on or before July 1, 2000.

(2) Utilities shall use pilot programs to gather necessary information to determine the most effective and timely options for providing customer choice. Necessary information includes but is not limited to:

(a) the level of demand for electricity supply choice and the availability of market prices for smaller customers;

(b) the best means to encourage and support the development of sufficient markets and bargaining power for the benefit of smaller customers;

(c) the electricity suppliers' interest in serving smaller customers and the opportunities in providing service to smaller customers; and

(d) experience in the broad range of technical and administrative support matters involved in designing and delivering unbundled retail services to smaller customers."

**Section 10.** Section 69-8-201, MCA, is amended to read:

**"69-8-201. Public utility -- transition to customer choice -- waiver.** (1) A public utility shall, except as provided in this section, adhere to the following deadlines:

(a) ~~On~~ Subject to subsection (4), on or before July 1, 1998, all customers with individual loads greater than 1,000 kilowatts and for loads of the same customer with individual loads at a meter greater than 300 kilowatts that aggregate to 1,000 kilowatts or greater must have the opportunity to choose an electricity supplier.

(b) Subject to subsection (2), and as soon as is administratively feasible but before July 1, 2002, all other public utility customers must have the opportunity to choose an electricity supplier.

**Section 11.** Section 69-8-203, MCA, is amended to read:

**"69-8-203. Public utility -- customer choice --~~continued service~~ -- education of customers.** (1) A customer is permitted to choose an electricity supplier pursuant to the deadlines established in 69-8-201. Public utilities shall propose a method for customers to choose an electricity supplier.

~~(2) If a customer has not chosen an electricity supplier by the end of the transition period, a city, county, or consolidated government that is licensed as an electricity supplier may, upon application to and approval by the commission, become the default supplier to residential and commercial customers of a public utility within its jurisdiction. For customers that are not within the jurisdiction of a licensed and approved city, county, or consolidated government electricity supplier area, a public utility shall propose a method in the public utility's transition plans for assigning that customer to an electricity supplier. The commission shall establish an application process and guidelines for the designation of one or more default suppliers for the distribution area of each public utility.~~

~~—(3) A public utility may phase in customer choice to promote the orderly transition to a competitive market environment pursuant to the deadlines in 69-8-201.~~

~~(4)~~(2) Public utilities shall educate their customers about customer choice so that customers may make an informed choice of an electricity supplier. This education process must give special emphasis to education efforts during the transition period."

**Section 12.** Section 69-8-210, MCA, is amended to read:

**"69-8-210. Public utilities -- electricity supply.** (1) On the effective date of a commission order implementing a public utility's transition plan pursuant to 69-8-202, the public utility shall remove its generation assets from the rate base.

~~(2) During the transition period, the commission may establish cost based prices for electricity supply service for customers that do not have a choice of electricity supply service or that have not yet chosen an electricity supplier.~~

~~(3)~~(2) If During the transition period, is extended, then the customers' distribution services provider, acting as the default supplier, shall:

(a) beginning July 1, 2002, extend any cost-based contract with the distribution services provider's affiliate supplier for a term of not more than 3 years; or

(b) purchase electricity from the market; and

(c) use a mechanism that recovers electricity supply costs in rates ~~to ensure that those costs are fully recovered~~ as provided in subsection (4).



of the commission's final order regarding a public utility's transition plan, including costs, expenses, and reasonable fees related to issuing of transition bonds;

(c) the unmitigable transition costs related to public utility-owned generation and other power purchase contracts, except that recovery of those costs is limited to the amount accruing during the first 4 years after the commission enters an order pursuant to 69-8-202(3); and

(d) other transition costs as may qualify for recovery under this section.

(2) Transition costs as determined by the commission upon an affirmative showing by a public utility must meet the following requirements:

(a) Transition costs must reflect all reasonable mitigation by the public utility, including but not limited to good faith efforts to renegotiate contracts, buying out or buying down contracts, and refinancing through transition bonds.

(b) The value of all generation-related assets and liabilities and electricity supply costs must be reasonably demonstrable and must be considered on a net basis, and methods for determining value must include but are not limited to:

(i) estimating future market values of electricity and ancillary services provided by the assets;

(ii) appraisal by independent third-party professionals; or

(iii) a competitive bid sale.

(c) Investments and power purchase contracts must have been previously allowed in rates or, if not previously in rates, must be determined to be used and useful to ratepayers in connection with the commission's approval of the utility's transition plan.

(d) Unless otherwise provided for in this chapter, only costs related to existing investments and power purchase contracts identified in subsection (2)(c) and costs arising from those investments and power purchase contracts may be included as transition costs.

(3) (a) On commission approval of the amount of a public utility's transition costs, those costs must be recovered through the imposition of a transition charge.

(b) A transition charge may not be collected from customers for:

(i) new or additional loads of 1,000 kilowatts or greater that were first served by the public utility after December 31, 1996; or

(ii) loads served by that customer's own generation.

(c) Subject to commission approval, a utility and a customer may agree to alter the customer's transition charge payment schedule. Public utilities may file with the commission tariffs for electric service rates that foster economic development or retention of existing customers within the state, including generally available rate schedules. Transition charges are the only charges that may be imposed upon a customer class to recover transition costs under this section. A separate exit fee may not be charged.

(10) ~~During the 4 year transition period~~ Before July 1, 2002, public utilities may accelerate the amortization of accumulated deferred investment tax credits associated with transmission, distribution, and the general plant as an adjustment to earnings if electric earnings fall below 9.5% earned return on average equity. The public utility may include the flow through of investment tax credits so that the public utility's earned return on equity is maintained at 9.5%. Accumulated deferred investment tax credits amortized under this subsection may not be reflected in operating income for ratemaking purposes.

(11) The commission shall issue the accounting orders necessary to align rate moratorium timing and requirements to actual transition bonds savings."

**Section 14.** Section 69-8-402, MCA, is amended to read:

**"69-8-402. Universal system benefits programs.** (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, energy conservation measures for irrigated agriculture, and low-income energy assistance during the transition period and into the future.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. Except as provided in subsection ~~(7)~~ (8), these universal system benefits charge rates must remain in effect until ~~July 1, 2003~~ December 31, 2005.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section. .

(b) Utilities must receive credit toward annual funding requirements for a utility's internal programs or activities that qualify as universal system benefits programs, including those portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, conservation and efficiency measures for irrigated agriculture, or low-income energy assistance, and for large customers' programs or activities as provided in subsection ~~(7)~~ (8). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility's distribution services provider at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's distribution services provider shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income related expenditures and conservation and efficiency measures for irrigated agriculture, the activity must have taken place in Montana.

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

~~(8)~~(9) A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the transition advisory committee provided for in 69-8-501. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the transition advisory committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and to the transition advisory committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(a) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(b) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and

(c) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

~~(9)~~(10) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

~~(10)~~(11) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection ~~(10)(b)~~ (11)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."

(8) The commission shall establish electricity supply rates for individual customer classes, which may vary based on cost factors associated with classifications of service or customers and any other reasonable consideration. Collectively, the individual electricity supply rates must reflect the full level of electricity supply costs that the default supplier incurs on behalf of its customers.

~~(10)~~(9) Until the commission has determined that workable competition has developed for small customers, a default supplier's obligation to serve remains.

~~(11)~~(10) In addition to promulgating rules expressly provided for in this chapter, the commission may promulgate any other rules necessary to carry out the provision of this chapter.

~~(12)~~(11) This chapter does not give the commission the authority to:

(a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance with this chapter; or

(b) compel any change to a cooperative utility's certification filing made pursuant to this chapter."

**Section 16.** Section 69-8-412, MCA, is amended to read:

**"69-8-412. Funds established -- fund administrators designated -- purpose of funds -- department rulemaking authority to administer funds.** (1) If, pursuant to 69-8-402(2)(f) or (5)(b), there is any positive difference between credits and the annual funding requirement, the department of revenue shall establish one or ~~both~~ all of the following funds:

(a) a fund to provide for universal system benefits programs other than low-income energy assistance. The department of environmental quality shall administer this fund.

(b) a fund to provide universal low-income energy assistance. The department of public health and human services shall administer this fund.

(c) a fund to provide for reductions in the energy costs of irrigated agriculture through energy conservation and efficiency measures. The department of agriculture shall administer this fund.

(2) The purpose of these funds is to fund universal system benefits programs.

(3) The department of environmental quality and the department of public health and human services may adopt rules that administer and expend the money in each respective fund based on an annual statewide funding assessment that identifies funding needs in universal system benefits programs. The annual assessment must take into account existing utility and large customer universal system benefits programs expenditures."

including the department of revenue's final decision, must be completed within 60 days of the department of revenue's public notice of the opportunity to comment on the challenged credit."

**Section 18. Consumer electricity support program.** (1) There is a consumer electricity support program. The purpose of the program is to provide an affordable and reliable electricity supply to customers of the default supplier from July 1, 2002, until June 30, 2007. The consumer electricity support program consists of financial support or the assignment and subsequent disposition of electricity supply.

(2) There is a consumer electricity support account in the state special revenue fund. The account must be used for the deposit of any of the financial sources dedicated to the account. Distributions from the account must be in accordance with rules adopted by the department of administration for the program. Financial sources for funding the account may include:

- (a) allocations from the state as provided by law; and
- (b) other financial sources as identified in rules adopted by the department of administration.

(3) Electricity supply made available for the program must be either disposed of, with the resulting revenue deposited to the consumer electricity support account, or assigned to the distribution services provider to serve default supply customers. The electricity supply providers must be reimbursed for electricity supply contributed and used in accordance with rules adopted by the department of administration for this program. Electricity supply sources include:

- (a) electricity provided by electricity suppliers;
- (b) electricity available in the electrical energy pool established in [section 1 of House Bill No. 645];
- (c) government power authorities;
- (d) qualifying facility electricity supply as provided by law; and
- (e) any other source of electricity supply as identified in rules adopted by the department of administration.

(4) The consumer electricity support program must be administered by the department of administration. The department shall adopt rules necessary to operate the program and to allocate the consumer electricity support resources beginning July 1, 2002. The rules must provide for the equitable distribution of program resources for default supply customers and for the reimbursement of the electricity supply providers. The rules must balance the short-term considerations of cost mitigation with the longer-term interests of encouraging customer demand response by establishing accurate electricity supply price signals. The department shall implement the consumer electricity support program in coordination with the default supplier.

(5) The department of administration may recover the costs of administering the program from the consumer electricity support account.

**Section 20. Short title.** [Sections 20 through 28] may be cited as the "Montana Power Authority Act".

**Section 21. Purpose.** The legislature finds and declares that:

- (1) the economic viability and security of the state of Montana is directly linked to reliable and affordable electrical energy;
- (2) electrical energy has become a basic and irreplaceable necessity that impacts the public health, safety, and welfare of all Montana citizens;
- (3) Montana's residential, agricultural, governmental, commercial, and industrial consumers of electrical energy are entitled to cost-based prices for electrical energy; and
- (4) it is in the public interest that the Montana power authority have the ability to:
  - (a) purchase electrical energy from any supplier in the wholesale market for the purpose of providing reliable, cost-based power exclusively to Montana consumers;
  - (b) construct, acquire, or enter into joint ventures to construct or acquire electrical generation facilities that will provide cost-based power to consumers in Montana;
  - (c) construct, acquire, or enter into joint ventures to construct or acquire electrical energy transmission or distribution systems;
  - (d) sell electrical energy to a default supplier and to any municipal utility, cooperative utility, or investor-owned utility that serves Montana customers;
  - (e) contract with public or private entities for the operation and maintenance of state-owned power facilities; and
  - (f) encourage and support energy conservation to mitigate consumer costs and detrimental impacts on the environment.

**Section 22. Definitions.** As used in [sections 20 through 28], unless the context requires otherwise, the following definitions apply:

- (1) "Cost-based" means the price charged to a distribution services provider that is sufficient to meet the operating costs, including commodity costs, of the Montana power authority and to ensure timely repayment of bonds issued on behalf of or any other debt incurred by the Montana power authority.
- (2) "Default supplier" means a distribution services provider.

**Section 24. Powers and duties.** (1) The Montana power authority may:

- (a) purchase electrical energy from any wholesale power supplier, on a contractual basis, without limitation on the duration of any contract, to meet the aggregated load requirements of consumers in the service territory of a distribution services provider in Montana;
  - (b) purchase, construct, and operate electrical generation facilities or electrical energy transmission or distribution systems in the state;
  - (c) enter into joint ventures with any municipality, a cooperative, an investor-owned utility, or any other public or licensed private entity in Montana for the purpose of financing the construction of an electrical generation facility or an electrical energy transmission or distribution system;
  - (d) request that the legislature authorize revenue bonds to be issued by the board of examiners pursuant to Title 17, chapter 5, for the purpose of:
    - (i) constructing electrical generation facilities or electrical energy transmission or distribution systems in the state; or
    - (ii) purchasing an electrical generation facility or an electrical energy transmission or distribution system; or
  - (e) sell electrical energy to any distribution services provider in the state;
  - (f) participate in a regional transmission organization established in response to or in compliance with an order of the federal energy regulatory commission; and
  - (g) participate with any municipality in an electrical energy generation project as provided in Title 90, chapter 5, part 1. The bonds may be publicly or privately sold, bear interest at rates and times, and mature at times not exceeding 40 years from the date of issuance as the board shall determine. The board may issue the bonds pursuant to a resolution or indenture of trust with a financial institution having the powers of a trust company. The resolution or indenture may contain provisions for protecting and enforcing the rights of bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the state, the board of examiners, the authority, or agencies of the state in relation to the acquisition, construction, improvements, maintenance, operation, repair, and insurance of the project financed with the proceeds of the bonds and the custody and application of all money. The trust indenture may set forth the rights and remedies of the bondholders as is customary in trust indentures, deeds of trust, and mortgages securing bonds.
- (2) The Montana power authority shall, subsequent to the purchase of electrical energy from the wholesale market or the generation of power from an in-state generation facility, offer cost-based electrical energy to Montana consumers, including to a default supplier and to any municipal utility, cooperative utility, or investor-owned utility in the state.

**Section 28. Pledge.** In accordance with constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of the bonds issued by the state.

**Section 29. Adoption of rules.** Because the supply and price of electricity constitute a threat to the public health, safety, and welfare, the commission and the department of administration may begin proceedings to adopt rules immediately upon passage and approval of [this act]. The rules must be adopted by July 1, 2001.

**Section 30. Repealer.** Sections 35-19-103, 69-8-416, and 69-8-417, MCA, are repealed.

**Section 31. Codification instruction.** (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 1 through 5].

(2) [Sections 18 and 19] are intended to be codified as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [sections 18 and 19].

(3) [Sections 20 through 28] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 20 through 28].

**Section 32. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2001.

(2) [Sections 29 and 31 and this section] are effective on passage and approval.



- (f) the value of avoided risk in power markets;
- (2) For those hydroelectric facilities determined to be in the public interest to acquire, the commission shall:
  - (a) purchase the hydroelectric facility at fair market value;
  - (b) if necessary, use the power of eminent domain to acquire the hydroelectric facility at fair market value;
  - (c) enter contracts to manage and operate hydroelectric facilities, provide marketing services or provide other services;
  - (d) sell electrical energy at a retail or wholesale level, provided that customers who reside in an area that was served by an investor-owned utility with its entire service territory in the state of Montana prior to January 1, 1997, and customers with an average individual metered demand of less than 1 megawatt have priority;
  - (e) utilize proceeds from the issuance and sale of revenue bonds by the board of examiners in order to purchase or otherwise acquire investments in hydroelectric facilities and to implement subsections (1) and (2) of this section.
- (f) reimburse any loss of revenue to any taxing unit, as defined in 15-1-101, associated with the acquisition of any hydroelectric facility. Reimbursement of local governments must be implemented as provided by law.
- (3) The commission may invest revenue from the sales of electricity in renewable energy development and projects for energy conservation as defined in 90-4-102.
- (4) The commission has all powers necessary and convenient to carry out the duties set forth in subsection (1), (2) and (3).

**NEW SECTION. Section 6. Rights of employees of hydroelectric generation facilities.** Each person employed by a hydroelectric facility acquired by the state of Montana under [section 4] is entitled to all rights that the person possessed as an employee before the ownership of the facility was transferred to the state.

**NEW SECTION. Section 7. Revenue bonds.** The board of examiners shall issue revenue bonds as necessary for the acquisition of hydroelectric generation facilities, real or personal property, and water rights set forth in [section 4] in an amount up to \$500 million. The board of examiners has all powers necessary and convenient to carry out the duties set forth in this section.

**NEW SECTION. Section 8. Repealer.** Sections 69-9-101, 69-9-102, 69-9-103, 69-9-107, 69-9-108, 69-9-111, 69-9-112, 69-9-113, 69-9-114 and 69-9-115, MCA are repealed.

**NEW SECTION. Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 10. Effective date.** [This act] is effective upon passage.

(a) matching funds to secure the maximum amount of federal funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; and

(b) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within two years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services.

**NEW SECTION. Section 3. Tobacco prevention advisory board.**

(1) There is a tobacco prevention advisory board. The board consists of 15 members appointed by the director of the department of public health and human services. Except for the initial appointments, each board member shall serve a 3-year term and is subject to reappointment for one succeeding term. The director shall appoint members to staggered terms, with 5 members serving an initial term of 1, 2 or 3 years. The initial members appointed shall draw lots to determine their term of office. The board shall terminate when tobacco settlement funds are no longer received by the state. The board shall meet at least one time each year, with date and frequency of meetings to be determined by its presiding officer. Health care professionals and individuals are eligible to serve on the board. A board member may not have been paid by the tobacco products industry during the 10-year period preceding appointment.

(2) Members of the board are not entitled to compensation for their services, but are entitled to mileage allowance, as provided in 2-18-503, and expenses as provided in 2-18-501 and 2-18-502.

(3) The board shall furnish advice, gather information, and perform other activities regarding the state special revenue accounts established pursuant to [section 2]. The board may make recommendations for the use of appropriations from the state special revenue accounts.

(4) The board is attached to the department of public health and human services for administrative purposes, and the department shall provide staff support to the board.

**Section 4.** Section 53-4-1011, MCA, is amended to read:

**"53-4-1011. (Temporary) Tobacco settlement funds to general fund.** Funds Unless deposited into the trust fund, provided for in 17-6-603, or a state special revenue account, provided for in [section 2], funds received from the tobacco settlement must be deposited in the general fund. Any funds appropriated from the general fund for the children's health insurance program that remain unexpended at the end of the biennium must be transferred to the general fund. (Terminates on occurrence of contingency – sec. 15, Ch. 571, L. 1999.)"

**NEW SECTION. Section 5. {standard} Codification instruction.** Sections 2 and 3 are intended to be codified as an integral part of Title 17, chapter 6, part 6, and the provisions of Title 17, chapter 6, part 6, apply to sections 2 and 3.

**NEW SECTION. Section 6. {standard} Severability.** If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 7. {standard} Effective date.** This act is effective upon approval by the electorate.

# Ballot Measure Worksheet

*Mark your choices on this worksheet and then take it with you on Election Day as a reminder.*

## CONSTITUTIONAL AMENDMENT 36

- ☐ FOR allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.
- ☐ AGAINST allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

## CONSTITUTIONAL AMENDMENT 37

- ☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.
- ☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

## CONSTITUTIONAL AMENDMENT 38

- ☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.
- ☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

## CONSTITUTIONAL AMENDMENT 39

- ☐ FOR allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.
- ☐ AGAINST allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

## INITIATIVE REFERENDUM 117

- ☐ APPROVE House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.
- ☐ REJECT House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.

## INITIATIVE 145

- ☐ FOR creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.
- ☐ AGAINST creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.

## INITIATIVE 146

- ☐ FOR dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.
- ☐ AGAINST dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.

## ***Key Election Dates***

**November 4:** Last day voters may submit a written request for an absentee ballot to their county election official. The county election office must receive the request by noon.

**November 5:** GENERAL ELECTION. Polls are open from 7 a.m. to 8 p.m. in most localities. Precincts of 200 or fewer voters may open their polling places at noon. Check your local media or county election office for the polling times in your area.

Voters may turn in completed absentee ballots at their county election office until the close of polls on Election Day.

Voters who suffer a serious illness or other medical emergency on Election Day or in the three days immediately preceding it may request an absentee ballot until noon on November 5.

**November 25:** Deadline by which official statewide canvass of votes must be completed by the Secretary of State's Office.

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**COUNTY ELECTION ADMINISTRATOR**  
**County Courthouse**